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DISTRICT &
 BANKRUPTCY COURTS

2004 OCT 17 P 12:19

FILED DEPOSITION IDAHO
 CAMERON S BURKE, CLERK

Attorney for the Debtor

UNITED STATES BANKRUPTCY COURT
 DISTRICT OF IDAHO

IN RE:)	Case NO. 03-21652
)	
GERALD LINDSEY and)	OBJECTION TO COMSTOCK
ONA LINDSEY,)	/VIAL MOTION FOR RELIEF
)	FROM AUTOMATIC STAY
Debtors.)	and NOTICE OF HEARING
)	

COMES NOW, the above named Debtors and hereby give Notice of their
 Objection to the Motion For Relief From Automatic Stay filed by David Vial
 (Vial) and Bruce Comstock (Comstock). This objection is made for the following
 reasons and upon the following basis:

1. Movants Vial and Comstock are general unsecured creditors in this
 matter;

DEBTORS OBJECTION
 TO MOTION FOR RELIEF
 FROM AUTOMATIC STAY

2. Creditors Vial and Comstock possess merely a judgment debt against the Debtor Gerald Lindsey;

3. On or about Vial and Comstock filed a collection action against Gerald Lindsey in the District Court of the Second Judicial District in and for the State of Idaho, David B. Vial and Bruce W. Comstock v. Gerald A. Lindsey and Noel S. Tanner, CV 33546. In their Complaint, Plaintiff's elected not to foreclose on the Nevada property, which is the subject of the instant Motion for Relief From Stay, but rather, elected to seek a money judgment.

4. Plaintiffs moved for summary judgment and said motion was granted. *See Affidavit of Brit Groom, Exhibit "A"*.

5. The resulting judgment was entered on May 23, 2003 in the amount of One Hundred Twenty-Seven Thousand Dollars and No Cents (\$127,000.00). *See Affidavit of Brit Groom, Exhibit "B"*.

6. Prior to the filing of Debtors bankruptcy, neither Vial or Comstock commenced any foreclosure or collection proceedings against the real property located in Nevada.

7. The real property located in Nevada may be in the name of Cornerstone L.L.C. against which the Trustee has taken a default judgment. In which case the

DEBTORS OBJECTION
TO MOTION FOR RELIEF
FROM AUTOMATIC STAY

real property is now property of the estate.

8. In the event the Nevada real property is in the name of Debtor Gerald Lindsay, it is now property of the estate.

9. The granting of the Vial/Comstock Motion For Relief From Stay would be prejudicial to all unsecured creditors.

10. The Nevada real property is property of the Debtor's estate and should be liquidated by the Trustee for the benefit of all creditors.

Dated this 17 day of October, 2004



Brit Groom, Attorney for Debtors

NOTICE OF HEARING

Notice is hereby given that a **Preliminary Hearing** on the above Objection will be heard before the Honorable Terry Myers via video conference in the **Federal Courthouse, 220 East 5th Street, Moscow, Idaho at the hour of 9:00 a.m. (Pacific) November 2, 2004.** Those wishing to participate may do so either from the courtroom in Moscow or may appear before Judge Myers in his Boise courtroom at the hour of 10:00 a.m (Mountain) on that date.

DEBTORS OBJECTION
TO MOTION FOR RELIEF
FROM AUTOMATIC STAY

CERTIFICATE OF SERVICE

I hereby certify that on this 18 day of October, 2004, I served via U.S. Mail to the individuals indicated, a copy of the foregoing document.

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DEBTORS OBJECTION
TO MOTION FOR RELIEF
FROM AUTOMATIC STAY

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DEBTORS OBJECTION
TO MOTION FOR RELIEF
FROM AUTOMATIC STAY